

YAVAPAI COUNTY ATTORNEY'S OFFICE
JOSEPH C. BUTNER SBN 005229
DEPUTY COUNTY ATTORNEY
255 East Gurley Street
Prescott, AZ 86301
Telephone: 928-771-3344
ycao@co.yavapai.az.us

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B. Chamberlain

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IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

Cause No. P1300CR20081339

Division 6

STATE'S RESPONSE TO MOTION IN
LIMINE TO EXCLUDE EVIDENCE OF
ALLEGED CRUEL AND DEPRAVED
CONDUCT

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby submits its Response to Defendant's Motion in Limine to Exclude Evidence of Alleged Cruel and Depraved Conduct. The State of Arizona's Response is supported by the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

On July 2, 2008 Virginia Carol Kennedy was beaten to death. Dr. Keen testified that her head was repeatedly struck by a blunt instrument and she was beaten all the way around her head in a violent attack. He further testified that the blows were of such force that pieces of her skull were fractured on both sides of her head and driven into her brain extruding her brain. The blows were also of such force that the facial bones that connect to the base of the skull were reduced to rubble inside her skull. There were so many fractures that a saw was

1 not necessary to open the skull and remove the brain from the cranial vault. In addition to the
2 fatal blows, prior to her death the victim had been hit in the face at least twice which resulted
3 in a broken nose, blackened eyes, laceration of the forehead and trauma to the mouth. There
4 were also defensive injuries present on her right arm consisting of rod- type linear injuries on
5 her right arm and an indentation with expanding bruising in the triceps area consistent with
6 the shape of a golf club. Dr. Keen testified that his opinion reached during the autopsy was
7 that an object consistent with a wood type golf club was what her attacker used. Dr. Keen
8 further testified that he thought there were 10 separate blows to the head and neck.

10 Dr. Laura Fulginiti, forensic anthropologist, will also testify that the blows to the
11 victim were of such force that the facial bones that support the skull were fractured into many
12 small pieces. She will further testify that the results of blows to the skull observed by her
13 during reconstruction and examination of the victim's skull were consistent with a wood type
14 golf club used as the murder weapon.

16 A wood type golf club had been dropped off at the Bridal Path residence prior to the
17 homicide by Steven Democker for his ex-wife to sell at an upcoming garage sale. No golf
18 club and no murder weapon were found at the scene. There was no sign of forced entry and
19 no evidence that anything was missing except the golf club. There was evidence that the
20 body had been moved after death and the scene had been staged to look like an accidental
21 fall.

23 This crime was a brutal beating and has been argued by the Defense to be a "rage
24 crime". It is obviously an example of "overkill" in the sense that the beating to the victim's
25 skull was significantly more than what was necessary to kill her. In either case, this type of
26 evidence tends to indicate the victim and her attacker knew each other. This type of evidence

1 is important for the jury to consider because it may help them to determine the motive for the
2 offense. Motive evidence also tends to identify who may be the perpetrator.

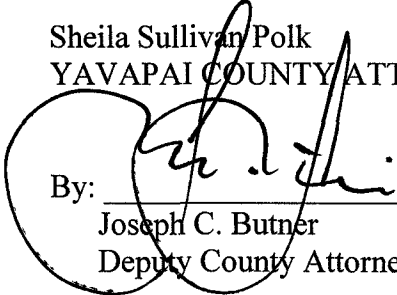
3
4 **CONCLUSION**

5 Rules 401, 402 and 403 of the Arizona Rules of Evidence are designed to allow the
6 jury to consider evidence that makes the existence of any fact that is of consequence to the
7 determination of the action more or less probable. This type of evidence is highly relevant to
8 the determination of motive, as well as intent, plan, identity and absence of mistake. Carol
9 Kennedy's death was not an accident. She was intentionally killed by a savage beating that
10 consisted of multiple blows to make sure she was dead. The number and severity of the
11 blows indicates there was much emotion involved in the attack. The evidence indicates that
12 she and her attacker were known to each other. Furthermore, the scene was staged to make it
13 look like an accident and the only thing noted to be missing was a golf club. There is no
14 danger of unfair prejudice to the Defendant in admitting evidence that demonstrates the
15 manner in which the homicide was committed. This evidence is highly probative of who
16 killed Carol Kennedy, why she was killed and how she was killed.
17
18

19 Defendant's motion should be denied.

20 RESPECTFULLY SUBMITTED this 25th April, 2010.

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23 Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

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25 By: 
26 Joseph C. Butner
Deputy County Attorney

Office of the Yavapai County Attorney

255 E. Gurley Street, Suite 300

Prescott, AZ 86301

Phone: (928) 771-3344 Facsimile: (928) 771-3110

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Honorable Thomas J. Lindberg

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Division 6

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Yavapai County Superior Court

(via email)

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John Sears

8

511 E.. Gurley St.

Prescott, AZ 86301

9

Attorney for Defendant

(via email)

10

11

Larry Hammond

12

Anne Chapman

13

Osborn Maledon, P.A.

2929 North Central Ave, 21st Floor

14

Phoenix, AZ

15

Attorney for Defendant

(via email)

16

17

By: Web Cornell

18

19

20

21

22

23

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